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## SECOND SESSION

Friday, April 28, 1922, at 10.30 o'clock a.m.

The Committee for the Advancement of International Law was called to order by the Honorable Elihu Root, President.

The PRESIDENT. Gentlemen of the Committee: This is a preliminary canter merely to bring the general committee together in order that it may start even before separation into the separate subcommittees. The design of this particular meeting is not to act as a committee, but to secure the beginning of the work of the separate committees in considering the specific subjects that have been assigned to them.

Now just a word about the general situation that we have to deal with. Of course there are certain fields of international law which have been so roughly dealt with during the war that there is great confusion in the public mind, and not merely in the mind of the man on the street, but of highly educated, cultivated men, men pretty familiar with the field, as to whether there is any law. Take the subject of visit and search, the subject of blockade, of contraband, and a great variety of kindred subjects; nobody really knows what the law is now, nobody knows how far the change in conditions has virtually effected a change in the law. When you apply rules to living conditions you get a resultant force, and it is quite certain that, if you apply the rules, for example, of the Declaration of Paris to the conditions in the world following the World War, you will have a result different from the resultant of the application of those rules before the war. Now, of course, that is a condition which is quite intolerable. It ought not to continue.

Then there are many directions or a number of directions in which things in the way of formulating rules of law and securing their general acceptance may be practicable now when they were not practicable before the war. That ought to be ascertained, whether people have learned something by this war. Perhaps they have; sometimes I doubt it. But we ought to find out whether they have learned anything.

Then there are new fields quite uncovered by rules of law. Life has traveled more rapidly than the development of law, and the law is left behind. It ought to be pulled up to a level with the conditions which need it.

Now I think that must be the feeling of everybody who believes in a world regulated by public law, who believes that the same force of world public opinion behind international rules of conduct which really make the municipal law of a state, ought to be operating effectively and systematically and practically again.

It is apparent, however, that the condition of things in the world is not

yet such as to make it practicable for the representatives of the states whose assent must make additional or amendatory rules to act in a general conference. The assent of the civilized states cannot be obtained, for their representatives cannot sit down quietly to consider the subject of the law. Everything is too much disturbed. The storm has left the waves too high for that condition of partial detachment.

The commission which met at The Hague two years ago on the invitation of the Council of the League of Nations, composed of gentlemen from all over the world stigmatized as international jurists,—that commission went beyond the function which was charged upon it and made its recommendation to the League of Nations that a conference should be called for the consideration of the subject of international law, specifying a series of specific points, and those specific points are distributed under the program of this Society among the committees or commissions into which you are about to separate. The Council passed that on to the Assembly of the League of Nations, and the Assembly declined to act. Some inquiry on the subject has led to the conclusion that while they did not state it very clearly, they felt that the time had not come to act upon recommendations of that kind. So I do not think it was a negative to the proposition, but it was a negative to action at that time. But unquestionably the time has come when the preparation ought to be going on. No conference that is called together can act without preparation. Suppose that five years hence the world is in a sufficiently chastened and sober mood to sit down and think about such a thing as law, if they got together without material they would not be able to do anything. The Hague Conferences would not have been able to do anything if the work had not been done beforehand. They had well matured and thought out plans to consider and say yes or no to them, and to make suggestions and criticisms about them. That process ought to be going on now. If everybody waits, they will wait until too late. Somebody ought to begin, get the thing going, get people to think about it, get people to make and formulate propositions. That is the only way to avoid a very disastrous result, when the political bodies ruling the states are ready to act.

As I tried to tell you last night, the necessities of policy of the Arms Conference here this winter required them to do a number of things which really were a beginning,—a beginning towards formulation, towards determining where some action was needed. That process ought to be carried on, and I know of nobody anywhere that is better fitted to do it than this Society. The point will presently be reached when conference or communication with other societies, other organizations, looking to the advancement of international law will be appropriate. But it is of no use to approach other societies, other organizations, with empty hands. Have something—have something to propose, some grist for the mill, before you undertake to grind in the mill. There is a great tendency always in human nature to get rid of doing something by organizing a little more! And we

want to avoid that. Now everybody, I think, who thinks about it recognizes the fact that there is work to be done, that somebody ought to do it, that the law of nations ought to be gotten on to a more definite and satisfactory basis; that you cannot do it by piling up organizations. The way to do it is to begin to do it; and I hope that beginning may be made not later than a quarter of eleven this morning.

I have been asked by Dr. Scott to read some notices. He wishes me to request all members who expect to attend the banquet tomorrow night to get the tickets today. I wish to say, however, that no member of this committee will be permitted to attend the banquet tomorrow unless he brings a certificate from Dr. Scott that he has done something today. A further notice reads: Please state that any subcommittee which needs clerical assistance may find it at No. 2 Jackson Place.

Before declaring this joint meeting adjourned, permit me to say a word about Lord Bryce. Great and noble man he was, full of public spirit in the broadest sense; not merely English public spirit, not merely British public spirit, but the spirit of ardent partisanship for all men everywhere on the face of the earth, of whatever race, or previous condition of servitude, who were struggling to attain the ends of free and orderly self-government; a man of noble and active enthusiasms but at the same time of the most simple and satisfactory common sense in the application of them; a genuine and special friend of America, watching for many years, with the greatest solicitude, all the ups and downs of our governmental experiments, and a man willing to take infinite trouble in the pursuit of the occupation of his life,—the study, the biological study, of the struggles of men towards government.

I went over to Europe two years ago, rather grumblingly, complaining that I was too old to be pulled and hauled around the world, and forced to do all sorts of odd jobs. I got up to The Hague, and I found a letter from Bryce written from Madrid. He wrote to ask me to be sure not to get away from Europe without his seeing me. He said he was just back from Morocco. He had been over there studying the tribes! Well, as Bryce was eighty-one, and I was only seventy-five, I withdrew all my previous remarks, and settled down to my work cheerfully.

This continent owes him a great deal, and the British Empire owes him a great deal for one thing that he did: The course of diplomatic affairs in matters relating to British possessions,—Canada on one hand and the United States on the other,—had always taken the rather devious course of, say, a communication between the State Department and the British Ambassador; that was sent to the Foreign Office, and sent by the Foreign Office to the Colonial Office; in accordance with the regular practice of the Colonial Office sent to the Government at Ottawa; and the Government at Ottawa having no branch or division for the purpose of dealing with such things, dealt with it as a whole; and after they had gotten through discussing and talking and finally coming to some conclusion, or no conclusion, they would report back

to the Colonial Office; the Colonial Office would send something on the basis of their report to the Foreign Office; the Foreign Office would send something back to the Ambassador; the Ambassador would go to the State Department; and then they would have a week to find out what it was all about! Well the representatives of Britain here trained in the diplomatic school were strictly correct in their treatment of such questions. But Bryce, when he found something coming up that really affected the interests of Canada, did not hesitate an hour to pack his gripsack, and to go to Ottawa and talk to them about it; and he would come back and know the whole thing! And that really started the new régime,—the new régime under which the long growing and rather sullen dissatisfaction of the British Dominions with having no voice in matters that affected their foreign relations was done away with. They acquired under his leadership as British Ambassador here the share in matters affecting their foreign relations that they thought they were entitled to; and it was a great thing for Britain, and for all of us, that that was the condition when this great war came on, instead of the condition of dissatisfaction that had preceded it.

I had a letter the other day telling about his end, in full possession of his strength, in full possession of his mental and physical powers; active, alert, busy, full of the great work that he was just entering upon, upon the life and times of Justinian. He went to bed as usual in the evening; in the morning he was gone, lying peacefully in his bed, an ideal end of a busy and active and restless life.

I feel myself not only great affection, but a feeling of grateful appreciation of the man who was real and who spent himself in doing real things, not for his aggrandizement, but to help everybody who was trying to do the things that he was interested in having done.

MR. CHARLES HENRY BUTLER. Mr. Chairman, I would like to say that we have been impressed with the remarks of the chairman, and at the proper time in the proceedings of the Society I shall ask to have these remarks transferred to the minutes of the meetings of the whole Society, and made the basis of a proper resolution to transmit to Lady Bryce, expressing the regard and esteem of this Society and the affection which this Society always had for Lord Bryce.

THE PRESIDENT. That is very appropriate. Is there any further business to be brought before the General Committee?

PROFESSOR GEORGE G. WILSON. Mr. Chairman, there are present a considerable number of members of the Society not members of, or not named on, these several subcommittees. Would it be in order that the members should be invited to share in the discussions of these subcommittees as they may choose?

THE PRESIDENT. Quite so; quite so. The organization in this Society is not an end; it is a means.

It is understood, then, that the members of the Society are invited to join any one of the subcommittees that interests them and take part in the discussion. Subcommittee No. 1 on "Visit, Search and Capture" I will assign to this corner of the room here (indicating); Subcommittee No. 2 on the "Status of Government Vessels," I will assign to this corner here (indicating), and if they do not behave, they will be subject to visit, search and capture by Subcommittee No. 1. Subcommittee No. 3 on "Problems of Maritime Warfare" will be put down in the corner on the left (indicating); Subcommittee No. 4 on "Offenses which could be characterized as International Crimes and Procedure" may have their meeting place in the remaining corner of the room.

Upon the adjournment of the subcommittees this morning they will adjourn to meet at half-past two this afternoon in their appropriate corners, and at half-past eight this evening Baron Korff will oblige us by a paper or an address upon "The Equality of States."

Is there any further business to be brought before the general committee? If not, the committee will separate and resolve itself into its constituent elements, meeting in their respective corners.

Whereupon, the meeting of the committee adjourned at 10.50 o'clock A.M.